

## **WORKER'S COMPENSATION**

Few people think we work in a dangerous place. After all, we work in **an office**. But our workplace is full of hazards. There are numerous ways to trip and fall. Chairs can tip over. Office machines pose various problems. The lack of adequate furniture, HVAC (Heating, Ventilation, Air Conditioning) systems recycle various hazards, asbestos problems, numerous problem clients, etc., can cause all kinds of hazards. Too often, these problems are not corrected before someone gets hurt. We need to deal with these health and safety issues and they are discussed elsewhere. But, we also need to know how to help our bargaining unit members if they are hurt or become ill because of their employment.

This section is designed to give you a brief overview of the worker's compensations program. It is not all inclusive and you should contact your Local, Regional, National or AFGE resources for assistance with any cases you work on.

Worker's Compensation is a program provided Federal employees under the Federal Employee Compensation Act (FECA) and administered by the Department of Labor. The program provides payments to employees who suffer on-the-job injuries or who develop illnesses or diseases from work.

### **THERE ARE TWO TYPES OF WC CLAIMS:**

1. **TRAUMATIC** (FORM CA-1)--When immediate illness or injury caused by some external force. (Examples: a file cabinet falls on an employee's foot; a claimant assaults an employee; pesticide use causes illness) Statement from witnesses can and should be filed with the claim. Supporting medical documentation should be attached. The Office of Workers Compensation Programs (OWCP) is the branch of the DOL that adjudicates the claims. OWCP may require the completion of a CA-16 by the employee for further medical documentation.
2. **OCCUPATIONAL** (Form CA-2)--A condition caused from work or due to systemic situations. There must be a causal relationship between the job and the illness. (Examples: a bad back from lifting mail; illness(es) caused by stress from an overbearing supervisor; carpal tunnel syndrome from typing) Medical documentation supporting the illness and linking it to the job is necessary. If more medical documentation is needed, OWCP may ask for a CA-20 from the employee.

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### **DEADLINES:**

TRAUMATIC INJURY--A CA-1 must be filed **within 2 working days** of the injury or event to avoid interruption of pay.

OCCUPATIONAL ILLNESS OR DISEASE--A CA-2 must be filed **within 30 days** from the date the employee becomes aware of the condition.

WHO CAN FILE A CLAIM: Forms CA-1 and CA-2 can be completed and filed by the **employee, the Union Representation** on behalf of the employee or **by any other employee** on the injured/ill employee's behalf.

### **FIVE REQUIREMENTS FOR A VALID WC CLAIM:**

1. The person must be an employee of the Federal government at the time of the injury or illness.
2. A claim must be filed within the appropriate time limit.
3. An illness or injury must be suffered.
4. At the time of the injury or illness the employee must have been performing his/her job duties at his/her duty station. (Normally the event must occur on government property. However, illnesses or injuries suffered while in travel status, such as for Union Representatives or Field Representatives, are covered.)
5. The condition for which compensation is claimed must have been related to the performance of job duties. (A causal relationship.)

### **CLAIMS PROCESSING:**

Claims on either the CA-1 or CA-2 are given to the employee's immediate supervisor who **must by law** accept them. The form is then sent to the Department of Labor OWCP for processing. Employees filing a CA-1 for traumatic injury are normally placed on continuation of pay immediately. However, management may controvert or dispute a claim. Employees filing a CA-2 for an occupational illness are often placed on leave or may request leave pending a disposition of the claim.

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### **MEDICAL CHECKLIST (CA-2):**

After filing a claim for an occupational illness, the employee will receive a checklist for a particular illness. The checklist is used to insure that the 5 requirements above are met and to determine if the illness existed before or was not work related. If more than one illness or condition exists, all should be listed. (This is the equivalent of meeting or equalling listings for disability claims under SSA.)

### **CONTROVERSION:**

Management may controvert or oppose any claim asserting the injury did not occur, was not disabling, was self-inflicted or any other excuse they might think of. The OWCP will take their opposition into consideration before making a decision.

### **BENEFITS PAYABLE:**

TRAUMATIC INJURY--Employees can receive up to 45 days of continuation of pay **if** that block is checked on the CA-1. Injured employees should not take annual or sick leave, even though management might try to coerce them into taking leave. For these first 45 days the employee will receive their full salary from SSA . If the injury continues beyond the 45 days, WC benefits can continue in the reduced amount cited below. WC payments come from the OWCP.

OCCUPATIONAL ILLNESS OR DISEASE--There is no continuation of pay. After a 3 day period of Leave Without Pay, benefits can begin. Payment is at the rate of **2/3** of the employee's salary if (s)he has no dependents or **3/4** of the salary if there are one or more dependents.

### **DEDUCTIONS:**

The only deductions from the employee's gross pay are for health insurance (only the employee's portion under FEHB) and FEGLI if the insurance deduction is already being made.

### **CLAIM NUMBER AND DATE OF INJURY:**

Every WC claim is assigned a claim number. The date of injury is also important in the claims process. It is necessary to keep track of the claim number and the date of injury for making status requests to OWCP.

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### **APPEAL RIGHTS:**

THREE TYPES OF APPEALS--Hearing; Reconsideration; and, Appeal.

HEARING--A Hearing is the **first** step of appeal to file when an initial decision is denied. The Hearing must be filed **within 30 days** of the unfavorable decision. The Hearing is not adversarial, but the employee has the right to be represented by the Union or a personal representative. The employee may speak at the Hearing and may offer witnesses to testify on his/her behalf. Additional evidence may be submitted at the Hearing. If additional medical or other evidence is forthcoming, but is not available for the Hearing, a request can be made to hold the record open until the evidence is submitted (usually no more than 30 days). Management usually does not attend the Hearing. A Reconsideration can be requested if an unfavorable decision is received.

**DO NOT FILE A RECONSIDERATION BEFORE FILING A HEARING OR YOU WILL LOSE YOUR RIGHT TO A HEARING. FILE THE HEARING FIRST!**

RECONSIDERATION--A Reconsideration can be filed if an unfavorable initial decision is rendered or if an unfavorable Hearing decision is issued. The Reconsideration must be filed **within 30 days** of the decision being contested. The employee may present extensive rationale or may merely state, "I want to file a Reconsideration". In either case, additional medical documentation or other evidence should be submitted to support the claim.

APPEAL--The final step of the appeals procedure is the filing of a formal Appeal with the Employee Compensation Appeals Board **within 90 days** of the unfavorable Reconsideration Hearing or initial decision. This decision is made based on a review of the record, **no new evidence is accepted**. The Appeals Board is not part of the Department of Labor.

The proper sequence for filing the appeals is Hearing, Reconsideration and Appeal. It is important to follow this sequence so you have all the opportunities allowed for submitting additional evidence.

### **OTHER COMMENTS:**

This guide is not intended to be a complete reference for you. Be sure to call for help. Call Local, Regional or Council officers or call AFGE. **DO IT IMMEDIATELY SO NO TIME FRAMES ARE MISSED AND NO EMPLOYEE BENEFITS ARE LOST!!!**

Do not expect management to know more about WC claims than you do. You may have to force them into learning what to do or teach them as you go along.

Be prepared for management to protest the claim. Do not assume they will be helpful. Assume you

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will have to push for everything to be done and be done timely.

### **REFERENCES:**

PMS s810-1, and s810-2  
National Agreement Article 34

### **BASIC FORMS LIST:**

- CA-1 Notice of Traumatic Injury
- CA-2 Notice of Occupational Disease
- CA-7 Claim for Compensation (for LWOP, leave buy-back, scheduled award)
- CA-8 Supplemental Claims (for periods not covered on the CA-7)
- CA-16 Authorization for Medical Care (Traumatic Injuries)
- CA-17 Job Demands/Employee's Medical Restrictions
- CA-35 Checklist of Information Needed in OD Claims
- HCFA-1500 AMA approved billing form-required by OWCP for all medical care except that from hospital or through pharmacy